

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

BENSON GILLIS,	§	
	§	
Petitioner,	§	
	§	Civil Action No. 4:98-CV-1096-D
VS.	§	
	§	
BRAD LIVINGSTON, DIRECTOR,	§	
TEXAS DEPARTMENT OF CRIMINAL	§	
JUSTICE, INSTITUTIONAL DIVISION,	§	
	§	
Respondent.	§	

ORDER


After making an independent review of the pleadings, files, and records in this case, and the January 5, 2007 findings, conclusions, and recommendation of the magistrate judge, the court concludes that the findings and conclusions are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted.

Accordingly, petitioner's October 16, 2006 motion to be relieved of a final judgment is denied to the extent it challenges this court's limitations bar dismissal of the petition under 28 U.S.C. § 2254. To the extent the October 16, 2006 motion raises substantive claims that petitioner is actually innocent of the underlying state court conviction, the motion is dismissed as a successive petition, without prejudice to petitioner's right to file a motion in the United States Court of Appeals for the Fifth Circuit for leave to file a successive petition pursuant to 28 U.S.C. § 2244(b)(3)(A).

Petitioner's October 16, 2006 motion for leave to proceed *in forma pauperis*, and his January 3, 2007 motion for expansion of state court records, are denied.

SO ORDERED.

June 5, 2007.



SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE